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October 31, 2002

Ex Parte

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W., TW-B204
Washington, D.C. 20554

**Re: WC Docket No. 02-314 – Application of Qwest
Communications International Inc. for Authorization to
Provide In-Region, InterLATA Service in the States of
Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota,
Utah, Washington and Wyoming**

Dear Ms. Dortch:

Qwest Communications International Inc. ("Qwest") submits this filing in response to an inquiry by Commission staff as to whether the North Dakota Performance Assurance Plan ("PAP") will be funded by the State Legislature.

Qwest does not perceive there to be a problem here. The North Dakota PAP will become effective upon approval of Qwest's Section 271 application for North Dakota, regardless of whether the State Legislature addresses the issue of Tier 2 funds. Sections 11.3 and 15.4 of the North Dakota PAP govern the receipt and disposition of Tier 2 funds generated by the North Dakota PAP.

Section 11.3 of the North Dakota PAP provides for the establishment of North Dakota Performance Assurance Fund for the purpose of receiving all Tier 2 payments. The fund will be established by Qwest as an interest bearing escrow account upon FCC Section 271 approval of the PAP. Section 15.4 of the North Dakota PAP provides that "[e]xpenses for the audit of the PAP and any other related expenses, except that which may be assigned under Section 15.3, shall be paid first from the Tier 2 funds [*i.e.*, the North Dakota Assurance Fund]." North Dakota PAP Section 11.3.2 requires that "[a]ll charges against the funds shall be presented to the Commission."

At issue is the extent to which the North Dakota Public Service Commission requires approval from the Legislature to direct the use of Tier 2 funds that are generated by the North Dakota PAP beyond the uses already described in Section 15.4.

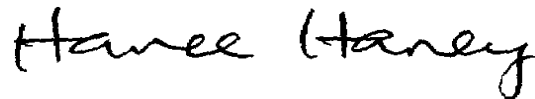
Section 7.5 of the North Dakota QPAP anticipates this issue. Section 7.5 of the ND PAP provides that

“[u]ntil such time as the North Dakota Legislature determines the uses by the Commission of Tier 2 funds, Tier 2 payments shall be made to the ND Performance Assurance Fund as set forth in QPAP Section 11.3 and its subsections. Upon the effective date of legislation, the receipt and administration of Tier 2 funds shall be as directed by the North Dakota Legislature.”

In the absence of legislative action, Sections 11.3 and 15.4 will govern the receipt and disposition of Tier 2 funds contained in the North Dakota Performance Assurance Fund. The North Dakota Legislature meets again starting the first week of January, 2003. Regardless of whether such legislation is passed, Qwest's obligation to make Tier 2 payments to the North Dakota Performance Assurance Fund will not be altered.

The 20-page limit does not apply to this filing.

Sincerely,

A handwritten signature in black ink that reads "Hamee Haney". The signature is written in a cursive, flowing style.

cc: E. Yockus
M. Carowitz
G. Remondino
J. Myles
R. Harsch

J. Jewel
P. Baker
C. Post
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